

REMARKS/ARGUMENTS

Applicants respectfully request further examination and reconsideration in view of the instant response. The claims remaining in the present application are Claims 1-26. Claims 1-26 are rejected. Claims 1-10, 12-16, and 18-26 are amended herein. No new matter has been added. Support for the amendments to Claims 10, 16, and 22 can be found at least at lines 9-10 of page 29.

CLAIM REJECTIONS – 35 U.S.C. §101

Claims 1-9 and 22-26 are rejected under 35 U.S.C. §101 as allegedly reciting ineligible subject matter. Claims 1-9 and 22-26 are amended herein and recite a non-transitory computer readable storage medium. Accordingly, the Applicants submit that Claims 1-9 and 22-26 overcome the rejection under 35 U.S.C. §101.

CLAIM REJECTIONS – 35 U.S.C. §103(a)

Obviousness Requirements

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)). Applicants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must

explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Moreover, Applicants respectfully note that “[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention” (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

Claims 1-26

Claims 1-26 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,122,520 to Want et al. (hereinafter referred to as “Want”) in view of U.S. Patent No. 6,961,555 to Philyaw (hereinafter referred to as “Philyaw”). The Applicants submit that the features recited in Claims 1-26 are patentable over Want in view of Philyaw for at least the following reasons.

Claims 1-9

Claim 1 recites (emphasis added):

A non-transitory computer readable storage medium having a data structure disposed therein for providing information corresponding to a geographic location, said data structure comprising:

a first data field for identifying said geographic location and positional data related to a physical location of said geographic location; and

a second data field associated with said first data field for containing said information, said second field is comprising a uniform resource locator, wherein a user can access said information;

wherein said first data field and said second data field are linked such that said data structure comprising said positional data and said uniform resource locator related to said physical location functions as a virtual beacon and is downloadable to a client device near said physical location such that said uniform resource locator is accessible by said user without browsing, wherein a physical location of said client device is not required to be transmitted;

said virtual beacon selectively provides a portion of said information to said client device on said network, wherein said portion is based on a context relating to a user of said client device; and

said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information.

The Applicants understand Want to disclose using position information of a receiver to direct users to pre-determined web pages. However, the Applicants do not understand Want to address the feature of dynamically updating information based upon the temporal pertinence of the information as recited in Claim 1.

The Applicants submit that Philyaw fails to repair the shortcomings of Want. The instant Office Action states, "Philyaw teaches the webpage/advertising (information) provided to the user can be based on time (temporal pertinence); see column 14, lines 45-65 Philyaw." The Applicants note that Philyaw teaches in the above cited art:

One could imagine that, due to the cost of advertisements in a high profile sports program, there is a desire to utilize this time wisely. If, for example, an advertiser contracted for 15 seconds worth of advertising time, they could insert within their program a tone containing the routing information.

The Applicants understand Philyaw to further disclose that, in response to the inserted routing information, a user can be directed to advertising of "longer length" than the advertiser contracted for. In other words, the Applicants understand the above cited art to disclose that a link is inserted into the sports program which directs a user to another site where more extensive advertising is presented. Thus, after paying for 15 seconds of advertising time, the advertiser can direct a user to a longer advertisement at a different site. The Applicants do not understand this to disclose the feature of dynamically updating information based upon the temporal pertinence of the information as recited in Claim 1. Instead, the Applicants understand Philyaw to disclose that the importance of time is related to the cost of advertising in a high profile sports program rather than to the content itself. The Instant Application describes instances in which the information conveyed changes based upon the current time. For example, lines 8-15 of page 34 describe a situation in which a client device will only detect a

beacon during a specific set time interval (e.g., when a store is open) Line 16 of page 38-line 5 of page 39 provides an example in which an invitee to an event is presented with different information based upon the time. The Applicants do not understand Philyaw to disclose that the content or information conveyed is dynamically updated based upon the time. For example, the URL to the website does not change based upon the time. Instead, the Applicants understand Philyaw to disclose that an advertiser can pay for less advertising time by inserting the routing information within the 15 second time slot of the sports programming.

The Applicants respectfully submit that the combination of Want and Philyaw, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Furthermore, the instant Office Action does not explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art as set forth in MPEP 2141(III). Accordingly, the Applicants submit that the rejection of Claim 1 under 35 U.S.C. §103(a) is not supported by the cited art.

Claims 2-9 depend from Claim 1 and recite additional features descriptive of embodiments of the present invention. Accordingly, the Applicants submit that the rejection of Claims 2-9 under 35 U.S.C. §103(a) is not supported by the cited art.

Claim 2

The instant Office Action states that Want teaches through Philyaw the feature of context which is subject to filtering wherein said filtering functions to deter locating a user as recited in Claim 2. The Applicants do not understand Want to disclose the above recited feature. The instant Office Action cites column 5, lines 58-67 of Want as disclosing the above recited feature. The Applicants have reviewed the cited art and do not understand any of the above cited sections to disclose a filtering operation of any sort. The Applicants understand Want to

disclose transmitting either coordinate information, or a unique URL. Thus, the Applicants understand Want to disclose either of actively using coordinate information, or using data which does not contain location information. The Applicants submit that this is different from actively filtering context information to deter locating a user as recited in Claim 2. The Applicants submit that Philyaw fails to repair the shortcomings of Want. The Applicants understand Philyaw to disclose that some devices may not be configured to determine their location (see column 2, lines 1-7 of Philyaw) and would therefore not be capable of actively filtering data to deter locating the user of such devices as they incapable of generating location data.

The Applicants respectfully submit that the combination of Want and Philyaw, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Furthermore, the instant Office Action does not explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art as set forth in MPEP 2141(III). Accordingly, the Applicants submit that the rejection of Claim 2 under 35 U.S.C. §103(a) is not supported by the cited art.

Claim 3

The instant Office Action states that Want teaches through Philyaw, the feature in which the receivability of a data structure to a client device is activated or deactivated in response to a condition. The Applicants note that the cited condition is recited in Claim 1 as relating to a temporal pertinence of information. The instant Office Action cites column 24, lines 9-29 of Philyaw as disclosing the above recited feature. The Applicants understand the above cited portion of Philyaw to disclose that requests for information may be buffered on a device in the event of a communication interruption. When communications are resumed, the request is sent. In the same way, reply information may be buffered until communications are established. The Applicants therefore understand Philyaw to disclose that requests and replies are sent and

received based upon communication connectivity instead of based upon the temporal pertinence of the information as recited in Claim 3. The Applicants further understand Want to be silent regarding the features recited in Claim 3.

Applicants respectfully submit that the combination of Want and Philyaw, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Furthermore, the instant Office Action does not explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art as set forth in MPEP 2141(III). Accordingly, the Applicants submit that the rejection of Claim 3 under 35 U.S.C. §103(a) is not supported by the cited art.

Claim 5

The Applicants submit that Want discloses connecting a wireless device to a remote site based upon the coordinates of the wireless device, or of a feature near the wireless device. The Applicants further understand Want to disclose that bar codes, infrared beacons, or printed material can be used to convey the location information. The Applicants do not understand Want to disclose a locational aspect selected from the group consisting of directional orientation, tilt orientation, motion through a specified area of coverage, and accessibility of a location to a position of a client device as recited in Claim 5. The instant Office Action cites column 3, lines 41-45 of Want as disclosing the above recited features. The Applicants understand the cited portion of Want to disclose the above recited features, or a device capable of determining orientation, or tilt. The Applicants further submit that Philyaw fails to repair the shortcomings of Want. More specifically, the Applicants do not understand Philyaw to disclose a locational aspect selected from the group consisting of directional orientation, tilt orientation, motion through a specified area of coverage, and accessibility of a location to a position of a client device as recited in Claim 5, or a device capable of determining orientation, or tilt.

Applicants respectfully submit that the combination of Want and Philyaw, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Furthermore, the instant Office Action does not explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art as set forth in MPEP 2141(III). Accordingly, the Applicants submit that the rejection of Claim 5 under 35 U.S.C. §103(a) is not supported by the cited art.

Claim 8

The Applicants do not understand Want alone, or in combination with Philyaw, to disclose the feature of context information stored on a portable computing device as recited in Claim 8. The Applicants understand Want to be silent regarding the storage of context information on a portable computing device. The Applicants understand Philyaw to disclose that a profile database 1302 is stored at a location other than that of the user's PC 1002 (see Figures 11 and 13). The Applicants submit that this teaches away from the above recited features.

Applicants respectfully submit that the combination of Want and Philyaw, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Furthermore, the instant Office Action does not explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art as set forth in MPEP 2141(III). Accordingly, the Applicants submit that the rejection of Claim 8 under 35 U.S.C. §103(a) is not supported by the cited art.

Claims 10 - 21

Claim 10 recites (emphasis added):

Serial No.: 10/698,708
82089986

14

Examiner: Choudhury, A.
Art Unit: 2453

A network based system for selectively providing a data structure to a client device, said data structure having a first data field for identifying a geographic location and positional data related to a physical location of said geographic location and a second data field associated with said first data field containing information corresponding to said location, said second field is comprising a uniform resource locator, said network further comprising:

a filter disposed upon said client device and coupled to said network for accessing context stored at said client device and on the basis of said context determining that said data structure is pertinent to a user of said client device and wherein said filter functions to deter locating said user, wherein said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information, and wherein a physical location of said client device is not required to be transmitted;

a server coupled to said network for selectively furnishing a portion said data structure to said client device on the basis of said context and said determining, wherein said first data field and said second data field are linked such that said data structure comprising said positional data and said uniform resource locator related to said physical location is downloaded to said client device when said client device is near said physical location such that said uniform resource locator is accessible without browsing; and

a database coupled to said server for storing a plurality of said data structures and providing said data structure to said server.

Claim 16 recites similar features. The Applicants understand Want to be silent regarding the feature of a filter functioning at a client device to deter locating a user as recited in Claims 10 and 16. The Applicants further do not understand Want to disclose any active process to deter locating a user as recited in Claims 10 and 16. The Applicants submit that Philyaw fails to repair this shortcoming of Want. The Applicants understand Philyaw to disclose that some devices may not be configured to determine their location (see column 2, lines 1-7 of Philyaw) and would therefore not be capable of actively filtering data to deter locating the user of such devices as they incapable of generating location data. Furthermore, as discussed above, the Applicants submit that Want in combination with Philyaw does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a) regarding the feature of dynamically updating information based upon a condition relating to a temporal pertinence of the information as recited in Claims 10 and 16. The Applicants further submit that Want in combination with Philyaw fails to disclose a filter disposed upon a client device as recited in Claims 10 and 16. As discussed above, the Applicants do not understand Want to disclose filtering information to deter locating a user,

while Philyaw is understood to disclose a profile database 1302 is stored at a location other than that of the user's PC 1002. However, this profile database is not understood to be configured or used to deter locating a user as recited in Claims 10 and 16.

Applicants respectfully submit that the combination of Want and Philyaw, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Furthermore, the instant Office Action does not explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art as set forth in MPEP 2141(III). Accordingly, the Applicants submit that the rejection of Claims 10 and 16 under 35 U.S.C. §103(a) is not supported by the cited art.

Claims 11-15 and 17-21 depend from Claims 10 and 16 respectively and recite additional features descriptive of embodiments of the present invention. Accordingly, the Applicants submit that the rejection of Claims 11-15 and 17-21 under 35 U.S.C. §103(a) is not supported by the cited art. Furthermore, Claims 11 and 17 are rejected on the same basis as the rejection of Claim 3 while Claims 13 and 19 are rejected on the same basis as the rejection of Claim 5. Accordingly, the Applicants submit that rejection of Claims 11, 13, 17, and 19 is not supported based upon the same reasons presented above.

Claims 22 - 26

Claim 22 recites (emphasis added):

A non-transitory computer readable storage medium having a data structure disposed therein for providing information corresponding to a geographic location, said data structure comprising:

a first data field for identifying said geographic location with respect to a point in three dimensional reference system related to a physical location of said geographic location, wherein said three dimensional reference system is based selectively on an absolute reference and a relative reference; and

a second data field associated with said first data field for containing said information, said second field is comprising a uniform resource locator, wherein a user can access said information;

wherein said first data field and said second data field are linked such that said data structure comprising said geographic location and said uniform resource locator related to said physical location functions as a virtual beacon and is downloadable to a client device near said physical location such that said uniform resource locator is accessible by said user without browsing and said virtual beacon selectively provides a portion of said information to said client device on said network, wherein said portion is based on a context relating to a user of said client device; and

said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information, wherein a physical location of said client device is not required to be transmitted and is filtered at said client device to deter locating said user.

Again, the Applicants submit that Want is silent regarding the feature of a filter functioning at a client device to deter locating a user as recited in Claim 22. The Applicants further do not understand Want to disclose any active process to deter locating a user as recited in Claim 22. The Applicants submit that Philyaw fails to repair this shortcoming of Want. The Applicants understand Philyaw to disclose that some devices may not be configured to determine their location and would therefore not be capable of actively filtering data to deter locating the user of such devices as they are not capable of generating location data. Furthermore, as discussed above, the Applicants submit that Want in combination with Philyaw does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a) regarding the feature of dynamically updating information based upon a condition relating to a temporal pertinence of the information as recited in Claim 22. The Applicants further submit that Want in combination with Philyaw fails to disclose a filter disposed upon a client device as recited in Claim 22. As discussed above with regard to Claim 8, the Applicants do not understand Want to disclose filtering information from a virtual beacon at all, while Philyaw is understood to disclose a profile database 1302 is stored at a location other than that of the user's PC 1002. However, this profile database is not understood to be configured or used to deter locating a user as recited in Claim 22.

Applicants respectfully submit that the combination of Want and Philyaw, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Furthermore, the instant Office Action does not explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art as set forth in MPEP 2141(III). Accordingly, the Applicants submit that the rejection of Claim 22 under 35 U.S.C. §103(a) is not supported by the cited art.

Claims 23-26 depend from Claim 22 and recite additional features descriptive of embodiments of the present invention. Accordingly, the Applicants submit that the rejection of Claims 23-26 under 35 U.S.C. §103(a) is also not supported by the cited art.

CONCLUSION

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims.

Based on the arguments presented above, Applicants respectfully assert that Claims 1-26 overcome the rejections of record, and therefore Applicants respectfully solicit allowance of these claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER BLECHER LLP

Date: 10/21/2011

/John P. Wagner, Jr./

John P. Wagner, Jr.

Reg. No. 35,398

123 Westridge Drive

Watsonville, CA 95076 USA

(408) 377-0500